

EXHIBIT C

NYPD

Right to Observe and the Rights of the Press

Training Objectives

NYPD

- How to interact with members of the public and the Right to Lawfully Observe and/or Record
- How to interact with members of the press

NYPD Administrative Procedure 304-21

NYPD

- Administrative Procedure 304-21, When a Member of the Service Encounters an Individual Observing, Photographing, and/or Recording Police Activity

NYPD Patrol Guide 212-49

NYPD

- Patrol Guide Procedure 212-49, Incidents Involving Members of the Press

Why Is This Training Important

NYPD

- New York Civil Rights Law § 79-P
- New York City Administrative Code § 14-189
- Promoting police accountability and transparency
- Promoting First Amendment Rights

Definitions

NYPD

- Public Areas – Spaces that are open to the public (i.e., Streets, Sidewalks and Parks) and are not exclusively used or owned by private entities.
- Private Areas – Space owned, managed, and controlled by private entities. (i.e., Buildings, Lobbies, Workspaces, and Individual's Own Property)

Definitions

NYPD

- General Member of the Public – “An individual who gathers content for private or public use and is not under arrest or in the custody of law enforcement.”
- Member of the Press – Individuals who gather, reports or licenses news or content for the purpose of publishing, broadcasting, or cablecasting articles, commentaries, books, photographs, video, films, or audio by electronic print, or digital media such as radio, television, newspaper, magazine, wire books, and the internet. These members of the press include but are not limited to an employee of a newsgathering organization, independent contractor, freelancer, or self-employed person

Indicia of Being Members of the Press

NYPD

- Members of the press may wear visible identification such as distinctive clothing, network labeling, insignias, or logos, and/or carry professional equipment such as cameras, lights, microphones or audio recorders
- Members of the press may hold media or press credentials issued by the City of New York or from other jurisdiction or government entities
- These indicia are not exclusive, and a person need not exhibit every one of them to be considered a journalist or member of the press.

Right to Lawfully Observe and/or Record

NYPD

- The NYPD shall respect the right to observe and the recording of officers in the public discharge of their duties in public spaces, including sidewalks, parks, and locations of First Amendment Activities, as well as any other areas where people otherwise have a legal right to be present, including a person's home or business and common areas of public and private facilities and buildings.
- The right to observe and/or record police activity where matters of public concern are occurring will be subject only to constitutionally permissible reasonable time, place and manner restrictions.

Members of the Department Will Not

NYPD

- Prevent or attempt to prevent an individual from recording police activities;
- Make threats, intimidate, or discourage the recording;
- Command or order the individual from recording when it is authorized under the law;
- Stop, seize, search, summons, or arrest an individual solely because the individual is recording police activity;
- Seize property or instruments used for recording;
- Delete or seize recorded images unless authorized by law; and/or
- Make copies of recordings without consent of that individual.

Members of the Department Will Not Arrest When

NYPD

- Member of the general public or the press is solely conducting one or more of these actions:
 - Taking photographs, videotaping, or making a digital recording;
 - Requesting or making note of officer's shield numbers or names;
 - Criticizing the police or objecting to police activity;
 - Refusing to leave the area; and/or
 - Using curse words or vulgar speech

Who is Authorized to do What?

NYPD

Member of the General Public – Right to Observe and/or Record

- May record police activity
- Cannot cross established frozen zone or police perimeters (i.e. police tapes, barriers)
- Cannot enter and remain on private properties without permission of the property owner or their representative for the purposes of observing or recording

Who is Authorized to do What?

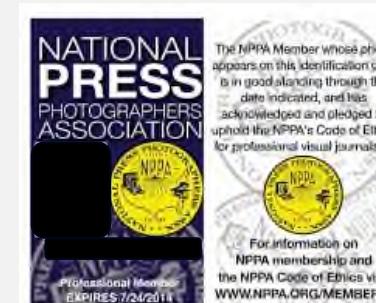
NYPD

Members of the Press without MOME credentials

- Give access as close to activity as possible, with clear line of sight and within hearing range (unaided by electronic devices)
- Cannot cross established frozen zones or police tapes
 - Members of the Press without MOME credentials will have access to any location where the public is permitted access
 - Officers may not put up police tape or establish frozen zones for the purpose of preventing members of the press from viewing or recording the scene from a public place
- May record on private property but must leave upon request of owner or representative
- At the discretion of the Incident Commander, members of the press without MOME credentials may be directed to move to a different location where to the fullest extent possible, they may still see and hear (unaided by any electronic device) ongoing newsworthy events and will not be subject to arrest for documenting police activity or for not leaving the general area

Examples of Press Credentials

NYPD



Who is Authorized to do What?

NYPD

MOME Credential Press Members

- Give access as close to activity as possible, with clear line of sight and within hearing range (unaided by electronic devices)
- MOME credentialed members of the press shall have access to any location where the public is permitted access. Officers may not put up police tape or establish frozen zones for the purpose of preventing members of the press from viewing or recording the scene from a public place
- May record on private property but must leave upon request of owner or representative
- Not required to leave areas of concern but will be required to move a safe location upon lawful police orders

Mayor's Office of Media and Entertainment (MOME)

NYPD

Standard Press Card

- Picture
- Name
- Employment
- Expiration Date



Mayor's Office of Media and Entertainment (MOME)

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Reserve Press Card

- Employment
- Expiration date



Mayor's Office of Media and Entertainment (MOME)

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Single Event Press Card

- Picture
- Name
- Employment
- Expiration Date
- Name of the Event
- Only valid for the duration of the event



Verifying Press Credentials

NYPD

- Member of the service may
 - Request another form of photo identification
 - Ask which city or agency issued the credential
 - Ask for details about the associated media outlet

Verifying Press Credentials

NYPD

<https://mome.my.site.com/CNYPressCard/s/>

Verifying Press Credentials

NYPD

**Office of the Deputy Commissioner
of Public Information (DCPI)**

646-610-6700

Obstruction of Governmental Administration (OGA)

NYPD

“A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved...”

Obstruction of Governmental Administration (OGA)

NYPD

- Actual physical force (i.e., touching/physically interfering with officer or suspect, by means of using a camera to intentionally obstruct officer's views)
- Intruding into the physical space necessary to perform officer functions and refusing to obey an order to move back
- Purposefully engaging in passive behavior that prevents an officers from taking enforcement action (i.e., blocking a prisoner van)

Requirement When Any Member of the Press is Arrested

NYPD

Members of the service are required by Administrative Code 14-189 to document instances in which an individual who was recording police activity is arrested or summonsed by indicating “RTR” for “Right to Record” on the summons

If a Member of the Press is Arrested

NYPD

- First Amendment Activity (Red Light Offenses only)
 - Arrest must be approved by either the Incident Commander or ranking member from DCPI
 - Red Light Offenses – Riot, incite to riot, non-violent OGA, violation of emergency orders, disorderly conduct, trespass, criminal mischief 3 or 4, New York State Vehicle and Traffic Law 1156(a), and unlawful assembly
- Issue a Criminal Court summons, if eligible on scene, unless Incident Commander determines health or safety risk

If a Member of the Press is Arrested

NYPD

- Do not seize press credentials
- Return press credentials or voucher for safekeeping
- May contact MOME at pressviolations@media.nyc.gov

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Office of the Deputy Commissioner of Public Information (DCPI)

646-610-6700

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NYPD Legal Bureau

646-610-5400